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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/766,843	01/30/2004	Nicolas Drevon	Q79623	4578
23373	7590	07/17/2007	EXAMINER	
SUGHRUE MION, PLLC 2100 PENNSYLVANIA AVENUE, N.W. SUITE 800 WASHINGTON, DC 20037			LEE, BETTY E	
		ART UNIT	PAPER NUMBER	
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)
	10/766,843	DREVON ET AL.
	Examiner	Art Unit
	Betty Lee	2616

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 30 January 2004.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-24 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 30 January 2004 is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____
3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)	5) <input type="checkbox"/> Notice of Informal Patent Application
Paper No(s)/Mail Date _____	6) <input type="checkbox"/> Other: _____

DETAILED ACTION

Drawings

1. Figure 1 should be designated by a legend such as --Prior Art-- because only that which is old is illustrated. See MPEP § 608.02(g). Corrected drawings in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

2. The drawings are objected to because the unlabeled boxes shown in Figure 1 should be provided with descriptive text labels. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet

submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

3. The disclosure is objected to because of the following informalities: The specification does not have headings separating sections.

Appropriate correction is required.

The following guidelines illustrate the preferred layout for the specification of a utility application. These guidelines are suggested for the applicant's use.

Arrangement of the Specification

As provided in 37 CFR 1.77(b), the specification of a utility application should include the following sections in order. Each of the lettered items should appear in upper case, without underlining or bold type, as a section heading. If no text follows the section heading, the phrase "Not Applicable" should follow the section heading:

- (a) TITLE OF THE INVENTION.
- (b) CROSS-REFERENCE TO RELATED APPLICATIONS.
- (c) STATEMENT REGARDING FEDERALLY SPONSORED RESEARCH OR DEVELOPMENT.
- (d) THE NAMES OF THE PARTIES TO A JOINT RESEARCH AGREEMENT.
- (e) INCORPORATION-BY-REFERENCE OF MATERIAL SUBMITTED ON A COMPACT DISC.
- (f) BACKGROUND OF THE INVENTION.
 - (1) Field of the Invention.
 - (2) Description of Related Art including information disclosed under 37 CFR 1.97 and 1.98.
- (g) BRIEF SUMMARY OF THE INVENTION.
- (h) BRIEF DESCRIPTION OF THE SEVERAL VIEWS OF THE DRAWING(S).
- (i) DETAILED DESCRIPTION OF THE INVENTION.

- (j) CLAIM OR CLAIMS (commencing on a separate sheet).
- (k) ABSTRACT OF THE DISCLOSURE (commencing on a separate sheet).
- (l) SEQUENCE LISTING (See MPEP § 2424 and 37 CFR 1.821-1.825. A "Sequence Listing" is required on paper if the application discloses a nucleotide or amino acid sequence as defined in 37 CFR 1.821(a) and if the required "Sequence Listing" is not submitted as an electronic document on compact disc).

Claim Rejections - 35 USC § 112

4. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

5. Claims **20-24** are rejected under 35 U.S.C. 112, first paragraph, as being single means claims, the network element being the single means. The breadth of the claims is not supported by the specifications.

6. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

7. Claims **11-24** are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims **11, 12, 14, 16, 17, and 19** use the term "may", which does not positively recite the claim limitations following it.

Claim **15** recites "respectively from the RANAP protocol to the RNSAP protocol" in line 4. It is unclear to what "respectively" is referring.

Claims 20-24 claim a network element implementing a method. It is not clear how the disclosed structure corresponds to the claimed means.

Claims 13 and 18 are rejected as being dependent on a rejected base claim.

Claim Rejections - 35 USC § 102

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

9. Claims 1-6, 10-14, 16, 20-22, and 24 are rejected under 35 U.S.C. 102(e) as being anticipated by Kekki (US 2003/0161325).

Regarding claim 1, Kekki teaches a step in which a first network element signals to a second network element by means of the radio network layer signaling protocol at least one parameter representative of transport quality of service or of quality of service for the transport network layer (see paragraph 45 lines 1-14), and a step in which the second network element uses said at least one parameter for transport quality of service management (see paragraph 44 lines 1-6).

Regarding claim 2, Kekki further teaches the first network element is a controlling network controller (see Fig. 1 Box 7).

Regarding claim 3, Kekki further teaches the second network element is a Node B or a base station (see Fig. 1 Box 6).

Regarding claim 4, Kekki further teaches the radio network layer signaling protocol is a Node B Application Part protocol applicable to the Iub interface between the controlling network controller and the Node B (see paragraph 45 line 9).

Regarding claim 5, Kekki further teaches the second network element uses the at least one parameter for transport quality of service management for uplink transmission over the Iub interface between the controlling radio network controller and the node B (see paragraph 44 lines 1-6).

Regarding claim 6, Kekki further teaches a serving radio network controller (see Fig. 1 Box 17).

Regarding claim 10, Kekki further teaches the at least one parameter representative of transport quality of service is a specific parameter intended to indicate a transport quality of service level (see paragraph 45 lines 1-7).

Regarding claim 11, Kekki further teaches the at least one parameter representative of transport quality of service is at least one radio access bearer parameter that may also be used as a transport quality of service parameter (see paragraph 40 lines 4-6).

Regarding claim 12, Kekki further teaches the at least one radio access bearer parameter that may also be used as a transport quality of service parameter is the transfer delay (see paragraph 38 lines 1-5).

Regarding claim 13, Kekki further teaches the at least one radio access bearer parameter that may also be used as a transport quality of service parameter is the traffic handling priority (see paragraph 40 lines 4-10).

Regarding claim 14, Kekki further teaches the at least one radio access bearer parameter that may also be used as a transport quality of service parameter is the traffic class (see paragraph 45 lines 1-6).

Regarding claim 16, Kekki further teaches the at least one parameter representative of transport quality of service is at least one parameter that may be associated with a transport quality of service level or at least one radio access bearer parameter that may also be used as a transport quality of service parameter (see paragraph 40 lines 4-6 and paragraph 45 lines 1-6).

Regarding claim 20, Kekki further teaches means for implementing a step in which a first network element signals to a second network element by means of the radio network layer signaling protocol at least one parameter representative of transport quality of service or of quality of service for the transport network layer (see paragraph 45 lines 1-14), and a step in which the second network element uses said at least one parameter for transport quality of service management (see paragraph 44 lines 1-6).

Regarding claim 21, Kekki further teaches a controlling radio network controller (see Fig. 1 Box 8).

Regarding claim 22, Kekki further teaches a serving radio network controller (see Fig. 1 Box 17).

Regarding claim 24, Kekki further teaches a Node B (see Fig. 1 Box 6).

Claim Rejections - 35 USC § 103

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

11. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

12. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

13. Claims 7-9 and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kekki (US 2003/0161325) in view of Verma et al. (US 2005/0210154).

Regarding claim 7 and 23, Kekki teaches all the subject matter of the claimed invention with the exception of a drift radio network controller. However, Verma teaches a drift radio network controller (see paragraph 27 line 5). Thus, it would have been obvious to one of ordinary skill to use the system of Verma in the system of Kekki. The motivation for doing so is to increase the reliability of the system by continuing communications when the mobile drifts.

Regarding claim 8, Kekki further teaches the radio network layer signaling protocol is a RNSAP signaling protocol applicable to the Iur interface between radio network controllers (see paragraph 45 lines 7-11). Kekki teaches all the subject matter of the claimed invention with the exception of a drift radio network controller. However, Verma teaches a drift radio network controller (see paragraph 27 line 5). Thus, it would have been obvious to one of ordinary skill to use the system of Verma in the system of Kekki. The motivation for doing so is to increase the reliability of the system by continuing communications when the mobile drifts.

Regarding claim 9, Kekki further teaches the second network elements uses the at least one transport quality of service management parameter for uplink transmission over the Iur interface between the serving radio network controller and the drift radio network controller and/or downlink transmission over the Iub interface between the drift radio network and the Node B (see paragraph 45 lines 1-11).

Allowable Subject Matter

14. Claims **15 and 17-19** would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Conclusion

15. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Molander et al. (US 2004/0203640) and Abraham et al. (US 2003/0156580) are all cited to show systems which are considered pertinent to the claimed invention.

16. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Betty Lee whose telephone number is (571) 270-1412. The examiner can normally be reached on Monday-Thursday 9-5 EST and alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hassan Kizou can be reached on (571) 272-3088. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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7/12/07



HAZZAN KIZOU
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600